

using the device would not be associated with high morbidity or mortality. Accordingly, manufacturers of any commercially distributed class I or II device for which FDA has granted an exemption from the requirement of premarket notification must still submit a premarket notification to FDA before introducing or delivering for introduction into interstate commerce for commercial distribution the device when:

(a) The device is intended for a use different from the intended use of a legally marketed device in that generic type of device; e.g., the device is intended for a different medical purpose, or the device is intended for lay use where the former intended use was by health care professionals only;

(b) The modified device operates using a different fundamental scientific technology than a legally marketed device in that generic type of device; e.g., a surgical instrument cuts tissue with a laser beam rather than with a sharpened metal blade, or an in vitro diagnostic device detects or identifies infectious agents by using deoxyribonucleic acid (DNA) probe or nucleic acid hybridization technology rather than culture or immunoassay technology; or

(c) The device is an in vitro device that is intended:

(1) For use in the diagnosis, monitoring, or screening of neoplastic diseases with the exception of immunohistochemical devices;

(2) For use in screening or diagnosis of familial or acquired genetic disorders, including inborn errors of metabolism;

(3) For measuring an analyte that serves as a surrogate marker for screening, diagnosis, or monitoring life-threatening diseases such as acquired immune deficiency syndrome (AIDS), chronic or active hepatitis, tuberculosis, or myocardial infarction or to monitor therapy;

(4) For assessing the risk of cardiovascular diseases;

(5) For use in diabetes management;

(6) For identifying or inferring the identity of a microorganism directly from clinical material;

(7) For detection of antibodies to microorganisms other than

immunoglobulin G (IgG) or IgG assays when the results are not qualitative, or are used to determine immunity, or the assay is intended for use in matrices other than serum or plasma;

(8) For noninvasive testing as defined in § 812.3(k) of this chapter; and

(9) For near patient testing (point of care).

[65 FR 2320, Jan. 14, 2000]

Subpart B—Diagnostic Devices

§ 886.1040 Ocular esthesiometer.

(a) *Identification.* An ocular esthesiometer is a device, such as a single-hair brush, intended to touch the cornea to assess corneal sensitivity.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

[52 FR 33355, Sept. 2, 1987, as amended at 53 FR 35603, Sept. 14, 1988; 59 FR 63012, Dec. 7, 1994; 66 FR 38809, July 25, 2001]

§ 886.1050 Adaptometer (biophotometer).

(a) *Identification.* An adaptometer (biophotometer) is an AC-powered device that provides a stimulating light source which has various controlled intensities intended to measure the time required for retinal adaptation (regeneration of the visual purple) and the minimum light threshold.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

[55 FR 48441, Nov. 20, 1990, as amended at 59 FR 63012, Dec. 7, 1994; 66 FR 38809, July 25, 2001]

§ 886.1070 Anomaloscope.

(a) *Identification.* An anomaloscope is an AC-powered device intended to test for anomalies of color vision by displaying mixed spectral lines to be matched by the patient.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in